Criminal Revision No.33 of 2001

Amrit Verma ..... Revisionist

Versus

State of Uttaranchal and others..... Opp.Parties.

.....

Hon.M.C.Jain,J.

Heard learned counsel for the revisionist and the learned A.G.A.

The revisionist is sought to be preferred by the revisionist (complainant) against the judgment and order dated 29.01.2001 passed by A.C.J.M. II, Dehradun , passed in criminal case no.480 of 1996 U/Ss 147,148, 149,452,504,506,323,I.P.C. by which he acquitted the respondent nos. 2 to 6 under the aforesaid sections.

The contention of the learned counsel for the revisionist is that the learned lower Court recorded acquittal without considering the entire evidence on record and the ame is based on surmises and conjectures.

The law is well embedded by the ruling of the Apex Court in the case of K.Chimaswamy Reddy Vs. State of Andhra Pradesh, A.I.R. 1962 SC 1788 that interference in revision with an order of acquittal might take place if there is glaring defect of procedure such as the Court had no jurisdiction to try the case or the Court had shut out some material evidence which was admissible or attempted to take into account the evidence which was not admissible or had overlooked some evidence. The present case does not fall within the parameters settled by the Supreme Court as set forth above.

The Supreme Court had also expressed through the case of Khetrawasi Vs. Orissa State(AIR 1970 SC 272) that in the revision at the instance of a private complainant the revisional Court cannot appraise the evidence and upset the finding of the lower Court. The

revisional jurisdiction conferred on the High Court is not to be lightly exercised when it is invoked by a private complainant(asis the case here)against an order of acquittal in respect of which the Government has a right to appeal.

It may be pointed out that as per section 378(1) Cr.P.C. the State may file an appeal to the High Court from an original or appellate order of acquittal.

It is found that the Magistrate concerned has given weighty reasons for recording acquittal. On over all judicial appraisal the Magistrate concerned was justified in holding that the evidence of the prosecution was insufficient to prove the guilt of the accused. The impugned judgment can not be flawed and the same does not suffer from any illegality, impropriety or incorrectness.

In view of the above discussion, the revision is devoid of merit and is hereby dismissed.

(M.C.Jain,J.)

Dt.27.4.2001

A.